



BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

A-549-822

Certain Frozen Warmwater Shrimp from Thailand: Preliminary Results of Antidumping Duty Administrative Review and Preliminary No Shipment Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Department) is conducting the sixth administrative review of the antidumping duty order on certain frozen warmwater shrimp (shrimp) from Thailand. The respondents which the Department selected for individual examination are Pakfood Public Company Limited and its affiliated subsidiaries (collectively, “Pakfood”)<sup>1</sup> and Thai Royal Frozen Food Co., Ltd. (TRF). The respondents which were not selected for individual examination are listed in the “Preliminary Results of Review” section of this notice. The period of review (POR) is February 1, 2010, through January 31, 2011.

We preliminarily determine that Pakfood and TRF have made sales at below normal value (NV) and, therefore, are subject to antidumping duties. In addition, based on the preliminary results for the respondents selected for individual examination, we have preliminarily determined a margin for those companies that were not individually examined.

If the preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on the preliminary results.

EFFECTIVE DATE: (Insert date of publication in the Federal Register).

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<sup>1</sup>These subsidiaries are: Okeanos Co., Ltd., Okeanos Food Co., Ltd., Takzin Samut Co., Ltd., Chaophraya Cold Storage Co., Ltd., and Asia Pacific (Thailand) Company Ltd.

FOR FURTHER INFORMATION CONTACT: Blaine Wiltse or Holly Phelps, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6345 or (202) 482-0656, respectively.

SUPPLEMENTARY INFORMATION:

Background

In February 2005, the Department published in the Federal Register an antidumping duty order on certain frozen warmwater shrimp from Thailand.<sup>2</sup> On February 1, 2011, the Department published in the Federal Register a notice of opportunity to request an administrative review of the antidumping duty order of certain frozen warmwater shrimp from Thailand for the period February 1, 2010, through January 31, 2011.<sup>3</sup> In response to timely requests from interested parties pursuant to 19 CFR 351.213(b)(1) and (2) to conduct an administrative review of the U.S. sales of shrimp by numerous Thai producers/exporters, the Department published a notice of initiation of administrative review for 156 companies.<sup>4</sup>

In the Initiation Notice, the Department indicated that, in the event that we would limit the respondents selected for individual examination in accordance with section 777A(c)(2) of the Tariff Act of 1930, as amended (the Act), we would select mandatory respondents for individual examination based upon CBP entry data. See Initiation Notice, 76 FR at 18157.

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<sup>2</sup> See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Thailand, 70 FR 5145 (Feb. 1, 2005) (Shrimp Order).

<sup>3</sup> See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review, 76 FR 5559 (Feb. 1, 2011).

<sup>4</sup> See Certain Frozen Warmwater Shrimp From Brazil, India, and Thailand: Notice of Initiation of Antidumping Duty Administrative Reviews, 76 FR 18157 (Apr. 1, 2011) (Initiation Notice). Following the publication of the Initiation Notice, several companies provided clarifications regarding their legal company names and/or addresses. As a result, the number of companies covered by this administrative review has been adjusted to reflect these clarifications.

In April 2011, we received comments on the issue of respondent selection from the petitioner,<sup>5</sup> the American Shrimp Processors Association (ASPA), and three producers/exporters of subject merchandise ((Marine Gold Products Limited (MRG)), Pakfood, and TRF). In its comments, MRG requested that the Department accept it as a voluntary respondent if it were not selected as a mandatory respondent.

From April through June 2011, we received statements from 14 companies that indicated that they had no shipments of subject merchandise to the United States during the POR. In May 2011, after considering the large number of potential exporters or producers involved in this administrative review, and the resources available to the Department, we determined that it was not practicable to examine all exporters/producers of subject merchandise for which a review was requested.<sup>6</sup> As a result, pursuant to section 777A(c)(2)(B) of the Act, we determined that we could reasonably individually examine only the two producers/exporters accounting for the largest volume of certain frozen warmwater shrimp from Thailand during the POR (i.e., Pakfood and TRF). Accordingly, we issued the antidumping duty questionnaire to Pakfood and TRF.

As part of the respondent selection process, we outlined the conditions under which the Department would analyze data filed by voluntary respondents in the current review, stating that we would only do so if the mandatory respondents failed to respond to the Department's requests for information. See Respondent Selection Memo, at 18. In June 2011, we notified MRG that, although it was not a respondent in the review, the Department would accept its voluntary

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<sup>5</sup> The petitioner is the Ad Hoc Shrimp Trade Action Committee.

<sup>6</sup> See Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from Holly Phelps, Analyst, Office 2, AD/CVD Operations, entitled, "2010-2011 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from Thailand: Selection of Respondents for Individual Review," dated May 19, 2011 (Respondent Selection Memo).

responses as timely filed if received by the same deadlines as set for the mandatory respondents. Also in June, we received responses from MRG, Pakfood, and TRF to section A (i.e., the section related to general information) of the Department's questionnaire.

In July 2011, we received responses from MRG and Pakfood to section B (i.e., the section covering the comparison market sales), section C (i.e., the section covering the U.S. market sales), and section D (i.e., the section covering cost of production (COP) and constructed value (CV)) of the Department's questionnaire.

In August 2011, we received responses from TRF to sections B and C of the Department's questionnaire. Also, in August 2011, the petitioner and the ASPA filed company-specific sales-below-cost allegations for TRF.

In September 2011, the Department initiated a sales-below-cost investigation for TRF, and we instructed TRF to respond to section D of the Department's questionnaire.<sup>7</sup> In this same month, we also received TRF's section D response.

In October 2011, the Department extended the preliminary results in the current review to no later than February 28, 2012.<sup>8</sup> Also in October 2011, the Department received additional requests from MRG that it be reviewed as a voluntary respondent in the current segment of the proceeding.

In November and December 2011, we issued supplemental sales and cost questionnaires to Pakfood and TRF, and we received responses to these supplemental questionnaires in the

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<sup>7</sup> See Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from the Team, entitled, "2010 – 2011 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from Thailand: Ad Hoc Shrimp Trade Action Committee's and the American Shrimp Processors Association's Allegations of Sales Below the Cost of Production for Thai Royal Frozen Food Co., Ltd.," dated September 14, 2011 (TRF Cost Investigation Memo).

<sup>8</sup> See Certain Frozen Warmwater Shrimp From India and Thailand: Notice of Extension of Time Limits for the Preliminary Results of the 2010–2011 Administrative Reviews, 76 FR 61668 (Oct. 5, 2011).

same months. We also issued an additional supplemental sales and cost questionnaire to TRF in January 2012, and we received the response to this supplemental questionnaire in February 2012. Also in February 2012, MRG again requested to be reviewed as a voluntary respondent in the current segment of the proceeding.

### Scope of the Order

The scope of this order includes certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,<sup>9</sup> deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the *Penaeidae* family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannamei*), banana prawn (*Penaeus merguensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue

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<sup>9</sup> “Tails” in this context means the tail fan, which includes the telson and the uropods.

shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Thai white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of this order. In addition, food preparations, which are not “prepared meals,” that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this order.

Excluded from the scope are: 1) breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); 2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; 3) fresh shrimp and prawns whether shell-on or peeled (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); 4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); 5) dried shrimp and prawns; 6) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); and 7) certain battered shrimp. Battered shrimp is a shrimp-based product: 1) that is produced from fresh (or thawed-from-frozen) and peeled shrimp; 2) to which a “dusting” layer of rice or wheat flour of at least 95 percent purity has been applied; 3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; 4) with the non-shrimp content of the end product constituting between four and ten percent of the product’s total weight after being dusted, but prior to being frozen; and 5) that is subjected to IQF freezing immediately after application of the dusting layer. When dusted in accordance with the definition of dusting above, the battered shrimp product is also coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by this order are currently classified under the following HTSUS subheadings: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15,

0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this order is dispositive.

### Voluntary Respondents

As noted above, throughout the course of this review, MRG has requested to be treated as a voluntary respondent, and it responded to the Department's questionnaire in a timely manner. In MRG's most recent request on February 13, 2012, the company cited a recent decision by the Court of International Trade (CIT) involving the selection of voluntary respondents.<sup>10</sup> MRG pointed out that the CIT in Grobest held that, in order for section 782(a)(2) of the Act to be meaningful, the Department must review a voluntary respondent unless it has made an independent determination that such a review would be unduly burdensome and would inhibit the timely completion of the investigation. See Grobest at 41-42.

According to MRG, the Department still has adequate time to examine the voluntary responses submitted by MRG. Additionally, MRG argues that, because it has served as a mandatory respondent in the two most recently completed reviews and has submitted timely responses in this proceeding, the Department's examination of MRG would not be unduly burdensome or inhibit the timely completion of this review.

In the Respondent Selection Memo, we explained that, based on our anticipated workload, we only had the resources to examine individually two companies in this review. The review of these two companies included analysis of the initial questionnaire responses, as well as

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<sup>10</sup> See Grobest & I-Mei Industrial (Vietnam) Co., Ltd., et al. v. United States, Slip Op. 12-9 (CIT Jan. 18, 2012) (Grobest).

the issuance of several supplemental questionnaires and analysis of their respective responses. This process required the Department to extend the deadline for the preliminary results because it was not practicable to complete the review within the original deadline. Thus, prior to the preliminary results, it would have been unduly burdensome and would have inhibited the timely completion of this review for the Department to have selected a voluntary respondent. In light of the CIT's ruling in Grobest, we have again examined our resources.<sup>11</sup> Based on this reexamination, we find that we do not have the resources to accept additional respondents in this segment of the proceeding.<sup>12</sup> As a result, accepting MRG as a respondent would be unduly burdensome, as the Department would have to assign staff to analyze its responses (in addition to completing their other casework within the statutory deadlines). Moreover, because this analysis would have to be performed, and MRG's responses to any supplemental questionnaires would be received, after the preliminary results, accepting MRG as a voluntary respondent would inhibit the timely completion of this review.

With respect to MRG's claim that its questionnaire responses are complete and thorough, we have no way to evaluate this statement without analyzing these responses. However, in the fifth administrative review, when MRG was a mandatory respondent, the Department issued four supplemental questionnaires to MRG prior to the preliminary results, and we have no reason to believe that its responses would not require a similar level of analysis here. Indeed, Pakfood has

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<sup>11</sup> We note that the litigation surrounding Grobest has not been finalized. The Department's results of remand redetermination are due to the CIT by March 16, 2012.

<sup>12</sup> AD/CVD Operations Office 2, the office to which this administrative review is assigned, has been responsible for conducting a number of additional less-than-fair-value investigations and administrative reviews (e.g., LTFV investigations on large residential washers from the Republic of Korea and Mexico, the first administrative review of the antidumping duty order on narrow woven ribbons with woven selvedge from Taiwan, etc.) since the initiation of this case. These additional cases continue to place significant constraints on staffing assignments.



participated in five administrative reviews of this order (i.e., three more than MRG) and the Department issued multiple supplemental questionnaires to this respondent. Given the number of supplemental questionnaires issued to the mandatory respondents in this proceeding, as well as our experience with MRG during the most recent administrative review in which it was a mandatory respondent, we expect that the examination of MRG during this proceeding would require a significant expenditure of resources, would be unduly burdensome, and would inhibit the timely completion of this review.

Therefore, we have not calculated an individual rate for MRG for purposes of the preliminary results; instead, we have assigned MRG the review-specific average rate of 1.48 percent.

#### Preliminary No Shipment Determination

As noted in the “Background” section, above, in April and May 2011, 14 companies notified the Department that they had no shipments of subject merchandise to the United States during the POR. Only nine of these claims, however, were properly filed and/or contained information sufficient to determine whether shipments were, in fact, made. The Department subsequently confirmed with CBP the no-shipment claims made by these nine companies. Because the evidence on the record indicates that these companies did not export subject merchandise to the United States during the POR, we preliminarily determine that the following nine companies had no reviewable transactions during the POR:

- 1) Anglo-Siam Seafoods Co., Ltd.
- 2) F.A.I.T. Corporation Limited
- 3) Grobest Frozen Foods Co., Ltd.
- 4) Lucky Union Foods Co., Ltd.
- 5) Namprik Maesri Ltd., Part.
- 6) S&P Syndicate Public Co., Ltd.

- 7) Siamchai International Food Co., Ltd.
- 8) Thai Union Manufacturing Co., Ltd.
- 9) V. Thai Food Product Co., Ltd.<sup>13</sup>

Since the implementation of the 1997 regulations, our practice concerning no-shipment respondents has been to rescind the administrative review if the respondent certifies that it had no shipments and we have confirmed through our examination of CBP data that there were no shipments of subject merchandise during the POR.<sup>14</sup> As a result, in such circumstances, we normally instruct CBP to liquidate any entries from the no-shipment company at the deposit rate in effect on the date of entry.

In our May 6, 2003, “automatic assessment” clarification, we explained that, where respondents in an administrative review demonstrate that they had no knowledge of sales through resellers to the United States, we would instruct CBP to liquidate such entries at the all-others rate applicable to the proceeding.<sup>15</sup>

Because “as entered” liquidation instructions do not alleviate the concerns which the May 2003 clarification was intended to address, we find it appropriate in this case to instruct CBP to liquidate any existing entries of merchandise produced by the nine companies listed above and exported by other parties, at the all-others rate, should we continue to find that these companies had no shipments of subject merchandise in the POR in our final results.<sup>16</sup> In addition, the

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<sup>13</sup> This company was listed in the Initiation Notice as V Thai Food Product.

<sup>14</sup> See Antidumping Duties; Countervailing Duties, 62 FR 27296, 27393 (May 19, 1997).

<sup>15</sup> See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003) (Assessment Policy Notice).

<sup>16</sup> See, e.g., Magnesium Metal From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review, 75 FR 26922 (May 13, 2010), unchanged in Magnesium Metal From the Russian Federation: Final Results of Antidumping Duty Administrative Review, 75 FR 56989 (Sept. 17, 2010); and Stainless Steel Sheet and Strip in Coils From Taiwan: Final Results of Antidumping Duty Administrative Review, 75 FR 76700, 76701 (Dec. 9, 2010).

Department finds that it is more consistent with the May 2003 clarification not to rescind the review in part in these circumstances but, rather, to complete the review with respect to these nine companies and issue appropriate instructions to CBP based on the final results of the review. See the “Assessment Rates” section of this notice, below.

With respect to the remaining five companies which submitted deficient statements of no shipments during the POR, three of the five companies (i.e., Calsonic Kansei (Thailand) Co., Ltd., Gulf Coast Crab International Co., Ltd., and Preserved Food Specialty Co., Ltd.) did not properly certify their statements of no shipments in accordance with 19 CFR 351.303(g)(1). The remaining two companies (i.e., Daedong (Thailand) Co., Ltd. and Tep Kinsho Foods, Ltd.) submitted statements of no shipments containing inadequate information. Although we contacted each of these companies to request that they correct the deficiencies, none has responded to our requests. Therefore, we preliminarily find that there is insufficient evidence on the record of this review to conclude that these companies made no shipments of subject merchandise to the United States during the POR, and we have assigned each of the five companies listed above a preliminary dumping rate based on the average of the rates calculated for Pakfood and TRF.

#### Comparisons to Normal Value

To determine whether sales of shrimp from Thailand to the United States were made at less than NV, we compared the export price (EP) to the NV, as described in the “Export Price” and “Normal Value” sections of this notice.

Pursuant to sections 773(a)(1)(B)(i) and 777A(d)(2) of the Act, for Pakfood and TRF, we compared the EPs of individual U.S. transactions, as applicable, to the weighted-average NV of

the foreign like product in the appropriate corresponding calendar month where there were sales made in the ordinary course of trade, as discussed in the “Cost of Production Analysis” section below.

### Product Comparisons

In accordance with section 771(16)(A) of the Act, we considered all products produced by Pakfood and TRF covered by the description in the “Scope of the Order” section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Pursuant to 19 CFR 351.414(e)(2), we compared U.S. sales of shrimp to sales of shrimp made in the home market within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the month of the last U.S. sale.

Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, according to section 771(16)(B) of the Act, we compared U.S. sales of non-broken shrimp to sales of the most similar non-broken foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by Pakfood and TRF in the following order: cooked form, head status, count size, organic certification, shell status, vein status, tail status, other shrimp preparation, frozen form, flavoring, container weight, presentation, species, and preservative. Where there were no sales of identical or similar non-broken merchandise, we made product comparisons using CV, as discussed in the “Calculation of Normal Value Based on Constructed Value” section below. See section 773(a)(4) of the Act.

With respect to sales comparisons involving broken shrimp, we compared Pakfood’s sales of broken shrimp in the United States to sales of comparable quality shrimp in the home

market. Where there were no sales of identical broken shrimp in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales of broken shrimp to sales of the most similar broken shrimp made in the ordinary course of trade. Where there were no sales of identical or similar broken shrimp, we made product comparisons using CV. TRF did not make sales of broken shrimp to the United States during the POR. Therefore, we disregarded TRF's home market sales of broken shrimp for purposes of product comparisons.

#### Export Price

For all U.S. sales made by Pakfood and TRF, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold by the producer/exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation and constructed export price (CEP) methodology was not otherwise warranted based on the facts of record.

#### A. Pakfood

We based EP on packed prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price for discounts in accordance with 19 CFR 351.401(c). We also made deductions from the starting price for foreign warehousing expenses, foreign inland freight expenses, foreign brokerage and handling expenses, ocean freight expenses, marine insurance expenses, U.S. brokerage and handling expenses, FDA inspection expenses, and U.S. customs duties (including harbor maintenance fees and merchandise processing fees), where appropriate, in accordance with section 772(c)(2)(A) of the

Act. Finally, we adjusted foreign warehousing expenses to account for services that were provided by affiliated parties at prices that were not at arm's length.<sup>17</sup>

B. TRF

We based EP on packed prices to the first unaffiliated purchaser in the United States. Where appropriate, we made adjustments to the starting price for billing adjustments in accordance with 19 CFR 351.401(c). We also made deductions from the starting price for foreign inland freight expenses, foreign gate charges, foreign brokerage and handling expenses, international freight expenses, marine insurance expenses, U.S. brokerage and handling expenses, and U.S. customs duties (including harbor maintenance fees and merchandise processing fees), where appropriate, in accordance with section 772(c)(2)(A) of the Act.

Normal Value

A. Home Market Viability

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. See section 773(a)(1)(C) of the Act. Based on this comparison, we determined that Pakfood and TRF had viable home markets during the POR. Consequently, we based NV on home market sales for Pakfood and TRF.

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<sup>17</sup> See the Memorandum to the File, from Holly Phelps, Analyst, Office 2, AD/CVD Operations, entitled, "Calculation Adjustments for Pakfood Public Company Limited and its affiliated subsidiaries, Okeanos Co., Ltd., Okeanos Food Co., Ltd., Takzin Samut Co., Ltd., Chaophraya Coldstorage Co., Ltd., and Asia Pacific (Thailand) Company Ltd. (collectively, "Pakfood"), for the Preliminary Results in the 2010-2011 Administrative Review of Certain Frozen Warmwater Shrimp from Thailand," dated February 28, 2012 (Pakfood Sales Calculation Memo).

B. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.<sup>18</sup> In order to determine whether the comparison market sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (i.e., the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (i.e., NV based on either home market or third country prices),<sup>19</sup> we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.<sup>20</sup>

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make an

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<sup>18</sup> Id.; see also Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part, 75 FR 50999, 51001 (Aug. 18, 2010), and accompanying Issues and Decision Memorandum at Comment 7 (OJ from Brazil).

<sup>19</sup> Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, general and administrative (G&A) expenses, and profit for CV, where possible.

<sup>20</sup> See Micron Tech., Inc. v. United States, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (i.e., no LOT adjustment is possible), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. See, e.g., OJ from Brazil, 75 FR at 51001.

In this administrative review, we obtained information from both respondents regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution. Company-specific LOT findings are summarized below.

1. Pakfood

Pakfood reported that it made EP sales through a single channel of distribution (i.e., direct sales to distributors). We examined the selling activities performed for U.S. sales and found that Pakfood performed the following selling functions: sales forecasting, market research, sales promotion, advertising, order processing, procurement/sourcing services, direct sales personnel, provision of cash discounts, payment of commissions, freight and delivery services, warehousing, and packing. Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery services; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Accordingly, based on the selling function categories, we find that Pakfood performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for U.S. sales. Because all sales in the United States are made through a single distribution channel (i.e., direct



sales to unaffiliated customers) and the selling activities to Pakfood's customers did not vary within this channel, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the home market, Pakfood reported that it made sales to manufacturers, distributors, retailers, and end-users. Pakfood stated that its home market sales were made through a single channel of distribution, direct from factory to customer, and that it performed the following selling functions for sales to home market customers: sales forecasting, market research, sales promotion, advertising, procurement/sourcing services, order processing, direct sales personnel, provision of cash discounts, freight and delivery services, warehousing, and packing. Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery services; and 3) inventory maintenance and warehousing; and 4) warranty and technical support. Accordingly, we find that Pakfood performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for all customers in the home market. Because all sales in the home market sales are made through a single distribution channel and the selling activities to Pakfood's customers did not vary within this channel, we preliminarily determine that there is one LOT in the home market for Pakfood.

Finally, we compared the U.S. LOT to the home market LOT and found that the selling functions performed for U.S. and home market customers are virtually identical, with the exception of commission payments made for certain U.S. sales. We note that this difference is not a sufficient basis to determine that the U.S. LOT is different from the home market LOT. Moreover, although there are some differences in the level of intensity at which some of the selling functions were performed in the two markets (i.e., more advertising and sales promotion

to home market customers, and more packing to U.S. customers), we find that these differences are not significant. Therefore, based on the totality of the facts and circumstances, we preliminarily determine that sales to the U.S. and home markets during the POR were made at the same LOT, and as a result, no LOT adjustment is warranted.

2. TRF

TRF reported that it made sales through one channel of distribution in the United States (i.e., EP sales made directly to unaffiliated customers). TRF reported performing the following selling functions for its U.S. sales: sales forecasting; customer contact; price negotiation; order processing; invoice issuance; delivery arrangements; preparation of company quality certificate; payment receipt; storage of finished goods prior to sale; warranty services; and sales support. These selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and, 4) warranty and technical support. Accordingly, based on the selling function categories, we find that TRF performed sales and marketing, freight and delivery services, inventory maintenance and warehousing, and warranty and technical support for all U.S. sales.

With respect to the home market, TRF reported that it made sales through two channels of distribution (i.e., direct sales made by TRF to the unaffiliated customer; and sales made by TRF to an affiliated reseller). In determining whether separate LOTs exist in the home market, we compared the selling functions performed across all channels of distribution. TRF reported that it performed the following selling functions for sales to all home market customers: sales forecasting; customer contact; price negotiation; short-term/spot contracts; order processing; invoice issuance; delivery arrangements; company quality certificate; payment receipt; storage of

finished goods prior to sale; warranty services; and sales support. These selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery services; 3) inventory maintenance and warehousing; and 4) warranty and technical support.

In addition to these activities, TRF reported that its affiliated reseller maintained an extensive retail presence in Thailand during the POR and performed the following additional selling activities for its sales: independent sales forecasting, market research, sales promotion/trade shows/advertising, commission payments, direct sales personnel, inventory maintenance, freight and delivery, personnel training, provision of discounts, after-sales services, repacking services, and procurement/sourcing services. These additional selling activities can be generally grouped into four selling function categories for analysis: (1) sales and marketing; (2) freight and delivery services; (3) inventory maintenance and warehousing; and 4) warranty and technical support. The provision of these additional activities is sufficient to determine that the four selling functions that TRF performed on sales through its affiliated reseller were at a higher degree of intensity than those performed on its direct sales to unaffiliated parties. Therefore, because the provision of these additional selling activities demonstrates a significant difference in selling functions, we find that TRF's sales through its affiliated reseller were at a more advanced LOT than its direct sales to unaffiliated parties. Accordingly, based on the totality of the facts and circumstances, we preliminarily determine that TRF made sales at two LOTs in the home market.

Finally, we compared the U.S. LOT to the home market LOTs and found that the U.S. LOT is the same as the home market LOT for TRF's direct sales to unaffiliated parties because

the selling functions performed by TRF are essentially the same in both markets. However, the selling functions TRF performed for home market sales through its affiliated reseller are at a higher degree of intensity and greater in number than the selling functions performed for TRF's U.S. sales. We conclude that this difference is sufficient to determine that TRF's home market sales through its affiliated reseller are at a different LOT than its U.S. sales. Additionally, because the home market LOT of TRF's sales through its affiliated reseller is at a different stage of distribution than TRF's U.S. LOT, an LOT adjustment is warranted.

When calculating a LOT adjustment, under section 773(a)(7)(A) of the Act, the Department determines whether a pattern of consistent price differences exists between the LOTs and, if so, then a LOT adjustment is possible. The Department makes a LOT adjustment to normal value using the weighted-average difference, as determined on a model-specific basis for models sold, in prices between the home market LOTs. In the current review, because TRF's home market sales show a consistent pattern of price differences between the LOTs, a LOT adjustment is possible. Therefore, we made a LOT adjustment to NV on all price-to-price comparisons involving sales made at different LOTs.

C. Cost of Production Analysis

We found that Pakfood made sales in the same comparison market below the COP in the most recently completed segment of this proceeding as of the date of initiation of this review and such sales were disregarded.<sup>21</sup> Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, we found that there were reasonable grounds to believe or suspect that Pakfood made sales in the home market at prices below the cost of producing the merchandise in the current POR.

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<sup>21</sup> See Certain Frozen Warmwater Shrimp From Thailand: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination, 76 FR 40881, 40883 (July 12, 2011).

Moreover, on August 23, 2011, the petitioner and the ASPA alleged that TRF made sales in the home market, during the POR, that were below the COP. Based on our analysis of the allegations made by the petitioner and the ASPA, we found that TRF's home market sales which fell below the COP were representative of the broader range of sales which may be used as a basis for normal value. Therefore, we determined, on this basis as well, that there were reasonable grounds to believe or suspect that TRF's sales of shrimp in the home market were made at prices below its COP. Accordingly, pursuant to section 773(b) of the Act, we initiated a sales-below-cost investigation to determine whether TRF's sales were made at prices below its COP. See TRF Cost Investigation Memo.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the respondents' COPs based on the sum of their costs of materials and conversion for the foreign like product, plus amounts for G&A expenses and interest expenses (see "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses).

The Department relied on the COP data submitted by each respondent in its most recently submitted cost database for the COP calculation. We made no adjustments to Pakfood's or TRF's reported COP data for purposes of the preliminary results. However, we note that TRF omitted certain products sold in the home market during the POR from its COP data. Therefore, we have used the cost data reported in TRF's home market sales database for these products.<sup>22</sup>

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<sup>22</sup> See the memorandum from Ji Young Oh, Senior Accountant, to Neal M. Halper, Director, Office of Accounting, entitled, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – Thai Royal Frozen Food Co., Ltd.," dated February 28, 2012.

Based on our review of the record evidence, neither Pakfood nor TRF appeared to experience significant changes in the cost of manufacturing during the POR. Therefore, we followed our normal methodology of calculating an annual weighted-average cost.

2. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(a)(1)(B)(i) of the Act, we compared the adjusted weighted-average COP to the home market sales prices of the foreign like product, in order to determine whether the sale prices were below the COP. For purposes of this comparison, we used COP exclusive of selling and packing expenses. The prices (inclusive of billing adjustments, where appropriate) were exclusive of any applicable movement charges, discounts, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act whether: 1) within an extended period of time, such sales were made in substantial quantities; and 2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of the respondent's home market sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales when: 1) they were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B)

and (C) of the Act; and 2) based on our comparison of prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

We found that, for certain products, more than 20 percent of Pakfood's and TRF's home market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

For those U.S. sales of subject merchandise for which there were no home market sales in the ordinary course of trade, we compared EPs to CV in accordance with section 773(a)(4) of the Act. See the "Calculation of Normal Value Based on Constructed Value" section below.

D. Calculation of Normal Value Based on Comparison Market Prices

1. Pakfood

We based NV for Pakfood on ex-factory or delivered prices to unaffiliated customers in the home market. Where appropriate, we made adjustments to the starting price for billing adjustments. We also made deductions, where appropriate, from the starting price for inland freight and warehousing expenses, under section 773(a)(6)(B)(ii) of the Act. We adjusted certain company-specific warehousing expenses to account for services that were provided by affiliated parties at prices that were not at arm's length. See the Pakfood Sales Calculation Memo.

For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for direct selling expenses (including imputed credit expenses, bank fees, and express mail charges) and commissions,

where appropriate. Because commissions were paid only in the U.S. market, we made a downward adjustment to NV for the lesser of: 1) the amount of the commission paid in the U.S. market; or 2) the amount of indirect selling expenses (including inventory carrying costs) incurred in the home market. See 19 CFR 351.410(e).

Finally, for all price-to-price comparisons, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We also deducted home market packing costs and added U.S. packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act.

## 2. TRF

For TRF, we calculated NV based on delivered prices to unaffiliated customers in the home market. We made adjustments to the starting price, where appropriate, for billing adjustments and rebates, in accordance with 19 CFR 351.401(c). We also made deductions for foreign inland freight expenses, under section 773(a)(6)(B) of the Act.

For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for direct selling expenses (including bank fees and imputed credit expenses) and commissions, where appropriate. Because commissions were paid only on sales in the home market, we also made an upward adjustment to NV for the lesser of: 1) the amount of commissions paid in the home market; or 2) the amount of indirect selling expenses incurred in the U.S. market. See 19 CFR 351.410(e).

For all price-to-price comparisons, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with



section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We also deducted home market packing costs and added U.S. packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act.

In accordance with section 773(a)(1)(B)(i) of the Act, we based NV, to the extent practicable, on sales at the same LOT as the EP. Where price-to-price comparisons were made at different LOTs, we made an adjustment to NV, in accordance with section 773(a)(7)(A) of the Act. See the “Level of Trade” section above.

E. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison market sales, NV may be based on CV. Accordingly, for those shrimp products for which we could not determine the NV based on comparison market sales because, as noted in the “Results of the COP Test” section above, all sales of the comparable products failed the COP test, we based NV on CV.

Sections 773(e)(1) and (2)(A) of the Act provide that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for selling, general, and administrative (SG&A) expenses, profit, and U.S. packing costs. For each respondent, we calculated the cost of materials and fabrication based on the methodology described in the “Cost of Production Analysis” section, above. We based SG&A and profit for each respondent on the actual amounts incurred and realized by it in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the home market, in accordance with section 773(e)(2)(A) of the Act.

We made adjustments to CV for differences in circumstances of sale, in accordance with section 773(a)(6)(C)(iii) and (a)(8) of the Act and 19 CFR 351.410. For comparisons to EP, we made circumstance-of-sale adjustments by deducting direct selling expenses incurred on home market sales from, and adding U.S. direct selling expenses to, CV. See 19 CFR 351.410(c). We also made an adjustment for Pakfood, when applicable, for home market indirect selling expenses to offset U.S. commissions in EP comparisons. See 19 CFR 351.410(e).

#### Currency Conversion

We made currency conversions into U.S. dollars for all spot transactions by Pakfood and all transactions by TRF, in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. In addition, Pakfood reported that it purchased forward exchange contracts which were used to convert its sales prices into home market currency. Under 19 CFR 351.415(b), if a currency transaction on forward markets is directly linked to an export sale under consideration, the Department is directed to use the exchange rate specified with respect to such currency in the forward sale agreement to convert the foreign currency.<sup>23</sup> Therefore, for Pakfood we used the reported forward exchange rates for currency conversions where applicable.

#### Preliminary Results of the Review

We preliminarily determine that weighted-average dumping margins exist for the respondents for the period February 1, 2010, through January 31, 2011, as follows:

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<sup>23</sup> See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand, 69 FR 76918 (Dec. 23, 2004), and accompanying Issues and Decision Memorandum at Comment 6; see also Certain Frozen Warmwater Shrimp From India: Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Preliminary No Shipment Determination, 76 FR 12025, 12031 (Mar. 4, 2011), unchanged in Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review, Partial Rescission, and Final No Shipment Determination, 76 FR 41203 (July 13, 2011).

<u>Manufacturer/Exporter</u>	<u>Percent Margin</u>
Pakfood Public Company Limited / Asia Pacific (Thailand) Co., Ltd. / Chaophraya Cold Storage Co., Ltd. / Okeanos Co. Ltd. / Okeanos Food Co. Ltd. / Takzin Samut Co., Ltd.	0.97
Thai Royal Frozen Food Co., Ltd.	1.98

Review-Specific Average Rate Applicable to the Following Companies:<sup>24</sup>

<u>Manufacturer/Exporter</u>	<u>Percent Margin</u>
A Foods 1991 Co., Ltd. / May Ao Co., Ltd. / May Ao Foods Co., Ltd.	1.48
A. Wattanachai Frozen Products Co., Ltd. <sup>25</sup>	1.48
A.S. Intermarine Foods Co., Ltd.	1.48
ACU Transport Co., Ltd.	1.48
Anglo-Siam Seafoods Co., Ltd.	*
Apex Maritime (Thailand) Co., Ltd.	1.48
Apitoon Enterprise Industry Co., Ltd.	1.48
Applied DB	1.48
Asian Seafood Coldstorage (Sriracha)	1.48
Asian Seafoods Coldstorage Public Co., Ltd. / Asian Seafoods Coldstorage (Suratthani) Co. / STC Foodpak Ltd.	1.48
Assoc. Commercial Systems	1.48
B.S.A. Food Products Co., Ltd.	1.48
Bangkok Dehydrated Marine Product Co., Ltd.	1.48
C Y Frozen Food Co., Ltd.	1.48
C.P. Merchandising Co., Ltd.	1.48
Calsonic Kansei (Thailand) Co., Ltd.	1.48
Century Industries Co., Ltd.	1.48
Chaivaree Marine Products Co., Ltd.	1.48
Chaiwarut Company Limited	1.48
Charoen Pokphand Foods Public Co., Ltd.	1.48
Chonburi LC	1.48
Chue Eie Mong Eak	1.48
Core Seafood Processing Co., Ltd.	1.48

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<sup>24</sup> This rate is based on the simple average of the margins calculated for those companies selected for individual review. Because we cannot apply our normal methodology of calculating a weighted-average margin due to requests to protect business-proprietary information, we find this rate to be the best proxy of the actual weighted-average margin determined for the mandatory respondents. See Ball Bearings and Parts Thereof From France, et al.: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part, 75 FR 53661, 53663 (Sept. 1, 2010) (Bearings from France).

<sup>25</sup> This company notified us that A. Wattanachai Frozen Products, on which we also initiated an administrative review, is a variation of its company name. The company's legal name is A. Wattanachai Frozen Products Co., Ltd.

CP Retailing and Marketing Co., Ltd.	1.48
Crystal Frozen Foods Co., Ltd. and/or Crystal Seafood	1.48
Daedong (Thailand) Co. Ltd.	1.48
Daiei Taigen (Thailand) Co., Ltd.	1.48
Daiho (Thailand) Co., Ltd.	1.48
Dynamic Intertransport Co., Ltd.	1.48
Earth Food Manufacturing Co., Ltd.	1.48
F.A.I.T. Corporation Limited	*
Far East Cold Storage Co., Ltd.	1.48
Findus (Thailand) Ltd.	1.48
Fortune Frozen Foods (Thailand) Co., Ltd.	1.48
Frozen Marine Products Co., Ltd.	1.48
Gallant Ocean (Thailand) Co., Ltd.	1.48
Gallant Seafoods Corporation	1.48
Global Maharaja Co., Ltd.	1.48
Golden Sea Frozen Foods Co., Ltd. <sup>26</sup>	1.48
Good Fortune Cold Storage Co., Ltd.	1.48
Good Luck Product Co., Ltd.	1.48
Grobest Frozen Foods Co., Ltd.	*
GSE Lining Technology Co., Ltd.	1.48
Gulf Coast Crab Intl.	1.48
H.A.M. International Co., Ltd.	1.48
Haitai Seafood Co., Ltd.	1.48
Handy International (Thailand) Co., Ltd.	1.48
Heng Seafood Limited Partnership	1.48
Heritrade	1.48
HIC (Thailand) Co., Ltd.	1.48
High Way International Co., Ltd.	1.48
I.T. Foods Industries Co., Ltd.	1.48
Inter-Oceanic Resources Co., Ltd.	1.48
Inter-Pacific Marine Products Co., Ltd.	1.48
K & U Enterprise Co., Ltd.	1.48
K Fresh	1.48
K. D. Trading Co., Ltd.	1.48
K.L. Cold Storage Co., Ltd.	1.48
KF Foods	1.48
Kiang Huat Sea Gull Trading Frozen Food Public Co., Ltd.	1.48
Kibun Trdg	1.48
Kingfisher Holdings Ltd.	1.48
Kitchens of the Oceans (Thailand) Ltd. <sup>27</sup>	1.48

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<sup>26</sup> This company notified us that Golden Sea Frozen Foods, on which we also initiated an administrative review, is a variation of its company name. The company's legal name is Golden Sea Frozen Foods Co., Ltd.

Klang Co., Ltd.	1.48
Kongphop Frozen Foods Co., Ltd.	1.48
Kosamut Frozen Foods Co., Ltd.	1.48
Lee Heng Seafood Co., Ltd.	1.48
Leo Transports	1.48
Li-Thai Frozen Foods Co., Ltd.	1.48
Lucky Union Foods Co., Ltd.	*
Maersk Line	1.48
Magnate & Syndicate Co., Ltd.	1.48
Mahachai Food Processing Co., Ltd.	1.48
Marine Gold Products Co., Ltd.	1.48
Merit Asia Foodstuff Co., Ltd.	1.48
Merkur Co., Ltd.	1.48
Ming Chao Ind Thailand	1.48
N&N Foods Co., Ltd.	1.48
Namprik Maesri Ltd. Part.	*
Narong Seafood Co., Ltd.	1.48
Nongmon SMJ Products	1.48
NR Instant Produce Co., Ltd.	1.48
Ongkorn Cold Storage Co., Ltd./ Thai-Ger Marine Co., Ltd.	1.48
Pacific Queen Co., Ltd.	1.48
Penta Impex Co., Ltd.	1.48
Pinwood Nineteen Ninety Nine	1.48
Piti Seafoods Co., Ltd.	1.48
Premier Frozen Products Co., Ltd.	1.48
Preserved Food Specialty Co., Ltd.	1.48
Queen Marine Food Co., Ltd.	1.48
Rayong Coldstorage (1987) Co., Ltd.	1.48
S&D Marine Products Co., Ltd.	1.48
S&P Aquarium	1.48
S&P Syndicate Public Company Ltd.	*
S. Chaivaree Cold Storage Co., Ltd.	1.48
S. Khonkaen Food Industry Public Co., Ltd. and/or S. Khonkaen Food Ind Public	1.48
Samui Foods Company Limited	1.48
SCT Co., Ltd.	1.48
Sea Bonanza Food Co., Ltd.	1.48
SEA NT'L CO., LTD.	1.48
Seafoods Enterprise Co., Ltd.	1.48
Seafresh Fisheries / Seafresh Industry Public Co., Ltd.	1.48
Search & Serve	1.48

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<sup>27</sup> This company notified us that Kitchens of the Ocean (Thailand) Ltd., on which we also initiated an administrative review, is a variation of its company name. The company's legal name is Kitchens of the Oceans (Thailand) Ltd.

Shianlin Bangkok Co., Ltd.	1.48
Shing Fu Seaproducts Development Co.	1.48
Siam Food Supply Co., Ltd.	1.48
Siam Intersea Co., Ltd.	1.48
Siam Marine Products Co. Ltd.	1.48
Siam Ocean Frozen Foods Co. Ltd.	1.48
Siamchai International Food Co., Ltd.	*
Smile Heart Foods Co. Ltd.	1.48
SMP Products, Co., Ltd. <sup>28</sup>	1.48
Southport Seafood Co., Ltd.	1.48
Star Frozen Foods Co., Ltd.	1.48
Starfoods Industries Co., Ltd.	1.48
Suntechthai Intertrading Co., Ltd.	1.48
Surapon Nichirei Foods Co., Ltd.	1.48
Surapon Foods Public Co., Ltd. <sup>29</sup> / Surat Seafoods Co., Ltd.	1.48
Suratthani Marine Products Co., Ltd.	1.48
Suree Interfoods Co., Ltd.	1.48
T.S.F. Seafood Co., Ltd.	1.48
Tanaya International Co., Ltd.	1.48
Tanaya Intl.	1.48
Tep Kinsho Foods Co., Ltd.	1.48
Teppitak Seafood Co., Ltd.	1.48
Tey Seng Cold Storage Co., Ltd.	1.48
Thai Agri Foods Public Co., Ltd.	1.48
Thai Mahachai Seafood Products Co., Ltd.	1.48
Thai Ocean Venture Co., Ltd.	1.48
Thai Patana Frozen	1.48
Thai Prawn Culture Center Co., Ltd.	1.48
Thai Spring Fish Co., Ltd.	1.48
Thai Union Frozen Products Public Company Ltd. / Thai Union Seafood Co., Ltd.	1.48
Thai Union Manufacturing Company Limited	*
Thai World Import & Export Co., Ltd. <sup>30</sup>	1.48
Thai Yoo Ltd., Part.	1.48
The Siam Union Frozen Foods Co., Ltd. <sup>31</sup>	1.48

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<sup>28</sup> This company notified us that SMP Foods Products Co., Ltd., and SMP Food Products Co., Ltd., on which we initiated an administrative review, are variations of its company name. The company's legal name is SMP Products, Co., Ltd.

<sup>29</sup> This company notified us that Surapon Seafood and Surapon Seafoods Public Co., Ltd, on which we initiated an administrative review, are variations of its company name. The company's legal name is Surapon Foods Public Co., Ltd.

<sup>30</sup> This company notified us that Thai World Imp. & Exp. Co. and Thai World Imports & Exports, on which we initiated an administrative review, are variations of its company name. The company's legal name is Thai World Import & Export Co., Ltd.

The Union Frozen Products Co., Ltd. / Bright Sea Co., Ltd.	1.48
Trang Seafood Products Public Co., Ltd.	1.48
Transmut Food Co., Ltd.	1.48
Tung Lieng Trdg	1.48
United Cold Storage Co., Ltd.	1.48
V Thai Food Product	*
Xian-Ning Seafood Co., Ltd.	1.48
Yeenin Frozen Foods Co., Ltd.	1.48
YHS Singapore Pte	1.48
ZAFCO TRDG	1.48

\* No shipments or sales subject to this review.

#### Disclosure and Public Hearing

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. See 19 CFR 351.224(b). Pursuant to 19 CFR 351.309(c), interested parties may submit cases briefs not later than the later of 30 days after the date of publication of this notice or one week after the issuance of the last verification report for TRF. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs. See 19 CFR 351.309(d). Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: 1) a statement of the issue; 2) a brief summary of the argument; and 3) a table of authorities. See 19 CFR 351.309(c)(2) and (d)(2).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). An electronically

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<sup>31</sup> This company notified us that Siam Union Frozen Foods, on which we also initiated an administrative review, is a variation of its company name. The company's legal name is The Siam Union Frozen Foods Co., Ltd.

filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice. Requests should contain: 1) the party's name, address and telephone number; 2) the number of participants; and 3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department will issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment Rates

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212(b)(1). The Department will issue appropriate appraisement instructions for the companies subject to this review directly to CBP 15 days after the date of publication of the final results of this review.

Pakfood and TRF reported the entered value for certain of their U.S. sales. We will calculate importer-specific ad valorem duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of these sales. See 19 CFR 351.212(b)(1).

Pakfood and TRF did not report the entered value for the remainder of their U.S. sales. We will calculate importer-specific per-unit duty assessment rates for these sales by aggregating the total amount of antidumping duties calculated for the examined sales and dividing this amount by the total quantity of those sales. With respect to Pakfood's and TRF's U.S. sales of



shrimp with sauce for which no entered value was reported, we will include the total quantity of the merchandise with sauce in the denominator of the calculation of the importer-specific rate because CBP will apply the per-unit duty rate to the total quantity of merchandise entered, including the sauce weight. To determine whether the duty assessment rates are de minimis, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we will calculate importer-specific ad valorem ratios based on the estimated entered value.

For the companies which were not selected for individual review, we will calculate an assessment rate based on the simple average of the margins calculated for those companies selected for individual review. In situations where we cannot apply our normal methodology of calculating a weighted-average margin due to requests to protect business-proprietary information, we use a simple average when it yields the best proxy of the weighted-average margin as a matter of practice. See Bearings from France, 75 FR at 53663.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above de minimis. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is de minimis. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable. See 751(a)(2)(C) of the Act.

The Department clarified its “automatic assessment” regulation on May 6, 2003. See Assessment Policy Notice. This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed

companies did not know that the merchandise they sold to the intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediary involved in the transaction. See Assessment Policy Notice for a full discussion of this clarification.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: 1) the cash deposit rate for each specific company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, de minimis within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; 2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; 3) if the exporter is not a firm covered in this review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and 4) the cash deposit rate for all other manufacturers or exporters will continue to be 5.34 percent, the all-others rate made effective by the Section 129 Determination.<sup>32</sup> These deposit requirements, when imposed, shall remain in effect until further notice.

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<sup>32</sup> Effective January 16, 2009, there is no longer a cash deposit requirement for certain producers/exporters in accordance with the Implementation of the Findings of the WTO Panel in United States Antidumping Measure on Shrimp from Thailand: Notice of Determination under Section 129 of the Uruguay Round Agreements Act and

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(4).

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Ronald K. Lorentzen  
Acting Assistant Secretary  
for Import Administration

February 28, 2012 \_\_\_\_\_  
(Date)

[FR Doc. 2012-5263 Filed 03/02/2012 at 8:45 am; Publication Date: 03/05/2012]